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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 SHIRLEY BEER,

9 Plaintiff,

Case No. C18-5355JLR

10 v.

11 NANCY A. BERRYHILL,

12 Defendant.

**ORDER DENYING
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

13 Shirley Beer, filing on behalf of Douglas Lewis, deceased, seeks to proceed *in*
14 *forma pauperis* for an action seeking judicial review of the administrative decision
15 denying Mr. Lewis's application for Social Security benefits. (IFP Mot.) (Dkt. #1). For
16 the reasons discussed below, the court DENIES Ms. Beer's application to proceed *in*
17 *forma pauperis* (Dkt. #1).

18 The district court may permit indigent litigants to proceed *in forma pauperis* upon
19 completion of a proper affidavit of indigence. 28 U.S.C. § 1915(a). "To qualify for *in*
20 *forma pauperis* status, a civil litigant must demonstrate both that the litigant is unable to
21 pay court fees and that the claims he or she seeks to pursue are not frivolous." *Ogunsalu*
22 *v. Nair*, 117 F. App'x 522, 523 (9th Cir. 2004), *cert. denied*, 544 U.S. 1051 (2005). To
23 meet the first prong of this test, a litigant must show that he or she "cannot because of his

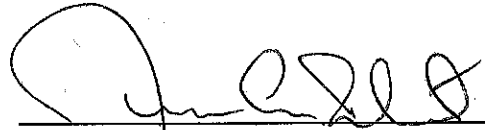
1 [or her] poverty pay or give security for the costs and still be able to provide himself [or
2 herself] and dependents with the necessities of life.” *Adkins v. E.I. DuPont de Nemours*
3 & Co., 335 U.S. 331, 339 (1948) (internal alterations omitted).

4 Ms. Beer has not shown that she is unable to pay the full filing fee to proceed with
5 this lawsuit. Ms. Beer states that she has monthly expenses of \$2,571.00 and no
6 dependents. (Dkt. #1 at 2.) She states that she has \$40.00 in cash on hand, and \$100.00
7 in a checking account. *Id.* Ms. Beer also attests in her affidavit that in the past 12
8 months, she received \$41,624.00 in “[p]ensions, annuities or life insurance payments.”
9 (*Id.* at 1.) While the form is ambiguous as to whether this was a one-time payout or an
10 amount Ms. Beer receives on an annual basis, Ms. Beer’s other statements indicate the
11 most likely interpretation is that this is an annual pension benefit. Where the form asks
12 Ms. Beer to “[p]rovide any other information that will help explain why you cannot pay
13 court fees and costs,” Ms. Beer states that she lives on retirement. (*Id.*) That response
14 would mean Ms. Beer receives approximately \$3,469.00 per month in retirement, which
15 would leave her with roughly \$869.00 per month after expenses. Under the
16 circumstances, the court finds Ms. Beer has failed to demonstrate that she “cannot
17 because of [her] poverty pay or give security for the costs and still be able to provide
18 [herself] and dependents with the necessities of life.” *See Adkins*, 335 U.S. at 339
19 (internal alterations omitted). Should additional information or clarification alter the
20 situation, Ms. Beer may reapply to proceed *in forma pauperis*.
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23 Accordingly, Ms. Beer’s application to proceed *in forma pauperis* is DENIED
WITHOUT PREJUDICE. Ms. Beer has 30 days from the date of this order to pay the

1 full \$400.00 filing fee or reapply to proceed *in forma pauperis*. If the filing fee or a new
2 application is not received within 30 days, the clerk's office is instructed to dismiss this
3 action WITHOUT PREJUDICE.

4 DATED this 9th day of May, 2018.

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7 JAMES L. ROBART
8 United States District Judge
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